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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,080

03/15/2004

Arnel Koster

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7590

10/24/2006

National IP Rights Center, LLC
Suite 400
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EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/801,080	Applicant(s) KOSTER, ARNEL	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 7, 8, 13, 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

This application contains claims 7,8,13,19-25 drawn to an invention nonelected without traverse on 2/8/06. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

Applicant stated that figure 3B was relabeled, but there was no copy of this in the response. The tines stanchion must be deleted from the claims not merely withdrawn to comply with the below drawing objection.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tines stanchion must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The amendment filed 8/1/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Pages 6-7 of the amendment add details to the loading and unloading of bales which does not appear to be supported by the originally filed specification and drawings. While clarification is needed on the loading and unloading as detailed in the below rejections, the clarification must be supported by the application as originally filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claim 12 is objected to because of the following informalities: line 2 should state "activating" instead of "activation". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6,9-12,14-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims are directed to a hay bale retriever/stacker but there is no explanation of how the bales are stacked nor is there any explanation of how bales are placed on or removed from the hay engagement portion. There is no structure disclosed that is capable of doing the actual loading and removal to/from the hay engagement portion

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,9-11, are rejected under 35 U.S.C. 102(b) as being anticipated by Butler (US 3,884,367).

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Re claim 1, Butler teaches a hay bale retriever/stacker 10, comprising:
a static bed 10, having a front end and a rear end;
a tilt bed 24, mounted at the rear end of the static bed;
a hay engagement portion (28 or 44), mounted on the tilt bed, for engaging hay bale during retrieval;

a headache rack 22 slidably mounted on the static bed 10, capable of sliding from a first position proximate to the rear end of the static bed to a second position proximate to the front end of the static bed; and

a hay bale stabilizer (rearmost members of 16,18) disposed on the static bed proximate to the rear end of the static bed to stabilize the hay bale;

said hay bale stabilizer capable of being used in conjunction with the headache rack and tilt bed to unload a desired number of hay bales from the static bed to the tilt bed, the hay bale stabilizer acting as a proxy between the static bed and the tilt bed;

said hay bale stabilizer capable of being used in conjunction with the headache rack and tilt bed to load hay bales from the tilt bed to the static bed, the hay bale stabilizer acting as a proxy between the static bed and the tilt bed.

Re claim 2, Butler teaches at least one hydraulic ram 84 mounted on the tilt bed 24 to move the hay bale forward to the static bed 10.

Re claim 3, Butler teaches a second hydraulic ram 84 mounted on the tilt bed 24 to move the hay bale forward to the static bed 10.

Re claim 9, Butler teaches a dolly 26 (or even 28) mounted on the hay engagement portion, wherein the dolly is capable of sliding from a first position on one

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end of the tilt bed to a second position located towards the stabilizer to load and unload hay bales.

Re claim 10, Butler teaches the hay bale stabilizer includes a first squeeze bar (rearmost members of 16,18) for stabilizing the hay bales.

Re claim 11, Butler teaches the hay bale stabilizer includes a second squeeze bar (rearmost members of 16,18) for stabilizing the hay bales.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6,14-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (US 3,884,367) in view of Babb (US 6,478,522).

Re claim 4, Butler teaches a ratchet assembly mounted on the static bed for slidably moving the headache rack 22 from the second position to the first position but does not mention a hydraulic winch and cable. Babb teaches (column 4, third paragraph) it is well known to use a hydraulic winch and cable in place of hydraulic cylinders to move items. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Butler by the general teaching of

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Babb to have a hydraulic winch and cable mounted on the static bed for slidably moving the headache rack from the second position to the first position as a well known equivalent and along remove the strain on the device caused by lifting the bales by ram 35.

Re claim 5, Butler teaches a corner post 16 disposed at the front end of the static bed.

Re claim 6, Butler teaches rails 18 disposed between and mounted on the corner post 16 and the hay bale stabilizer (rearmost of 16,18) on opposing sides of the static bed but is silent as to whether the rails 16 are cables. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the rails of Butler cables as they are an inexpensive and well known equivalent to rails.

Re claim 14, Butler teaches a hay bale retriever/stacker 10, comprising:

- a static bed 10, having a front end and a rear end;

- a tilt bed 24, mounted at the rear end of the static bed;

- a hay engagement portion (28 or 44), mounted on the tilt bed, for engaging hay bale during retrieval;

- a headache rack 22 slidably mounted on the static bed 10, capable of sliding from a first position proximate to the rear end of the static bed to a second position proximate to the front end of the static bed; and

- a hay bale stabilizer (rearmost members of 16,18) disposed on the static bed proximate to the rear end of the static bed to stabilize the hay bale;

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said hay bale stabilizer capable of being used in conjunction with the headache rack and tilt bed to unload a desired number of hay bales from the static bed to the tilt bed, the hay bale stabilizer acting as a proxy between the static bed and the tilt bed;

said hay bale stabilizer capable of being used in conjunction with the headache rack and tilt bed to load hay bales from the tilt bed to the static bed, the hay bale stabilizer acting as a proxy between the static bed and the tilt bed;

first and second hydraulic rams 84 mounted on the tilt bed 24 to move the hay bale forward to the static bed 10;

Butler teaches a ratchet assembly mounted on the static bed for slidably moving the headache rack 22 from the second position to the first position but does not mention a hydraulic winch and cable. Babb teaches (column 4, third paragraph) it is well known to use a hydraulic winch and cable in place of hydraulic cylinders to move items. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Butler by the general teaching of Babb to have a hydraulic winch and cable mounted on the static bed for slidably moving the headache rack from the second position to the first position as a well known equivalent and along remove the strain on the device caused by lifting the bales by ram 35.

Re claim 15, Butler teaches a dolly 26 (or even 28) mounted on the hay engagement portion, wherein the dolly is capable of sliding from a first position on one end of the tilt bed to a second position located towards the stabilizer to load and unload hay bales.

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Re claim 16, Butler teaches the hay bale stabilizer includes a first squeeze bar (rearmost members of 16,18) for stabilizing the hay bales.

Re claim 17, Butler teaches the hay bale stabilizer includes a second squeeze bar (rearmost members of 16,18) for stabilizing the hay bales.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (US 3,884,367) in view of Graham (US 3,478,898)

Re claim 12, Butler does not teach at least one hydraulic ram for activating the first squeeze bar and at least one hydraulic ram for activating the second squeeze bar. Graham teaches at least one hydraulic ram (76,77,86) for activating the first squeeze bar (72,73,68,69,etc.) and at least one hydraulic ram (76,77,86) for activating the second squeeze bar (72,73,68,69,etc.) in order to make sure the bales are orderly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Butler by the general teaching of Graham to have at least one hydraulic ram for activating the first squeeze bar and at least one hydraulic ram for activating the second squeeze bar in order to make sure the bales are orderly.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (US 3,884,367) in view of Babb (US 6,478,522) and further in view of Graham (US 3,478,898)

Re claim 18, Butler does not teach at least one hydraulic ram for activating the first squeeze bar and at least one hydraulic ram for activating the second squeeze bar.

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Graham teaches at least one hydraulic ram (76,77,86) for activating the first squeeze bar (72,73,68,69,etc.) and at least one hydraulic ram (76,77,86) for activating the second squeeze bar (72,73,68,69,etc.) in order to make sure the bales are orderly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Butler by the general teaching of Graham to have at least one hydraulic ram for activating the first squeeze bar and at least one hydraulic ram for activating the second squeeze bar in order to make sure the bales are orderly.

Conclusion

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl


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